

This Opinion is Not a
Precedent of the TTAB

Mailed: July 5, 2023

UNITED STATES PATENT AND TRADEMARK OFFICE

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Trademark Trial and Appeal Board
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In re Casinola LLC
—

Serial Nos. 90115759; 90115777¹
—

Jayson M. Lorenzo of J. Lorenzo Law,
for Casinola LLC.

Audrey Ricks, Trademark Examining Attorney, Law Office 129,
Pamela Y. Willis, Managing Attorney.²

—

Before Cataldo, Larkin and Thurmon,
Administrative Trademark Judges.

Opinion by Cataldo, Administrative Trademark Judge:

Applicant, Casinola, LLC, seeks registration on the Principal Register of the proposed mark CASINOLA (in standard characters) identifying the following goods and services:

¹ In a paralegal order (14 TTABVUE), the Board granted the Examining Attorney's motion to consolidate these appeals (13 TTABVUE). In this decision we will refer to the briefs and prosecution record in application Serial No. 90115759 unless otherwise noted.

² The involved applications were examined by another Examining Attorney, who issued the final refusals to register from which these appeals were taken. The applications were assigned to Examining Attorney Ricks on appeal.

Downloadable electronic game software; Downloadable game software; Downloadable video game software; Downloadable electronic game software for cellular telephones; Downloadable electronic game software for handheld electronic devices; Downloadable interactive game software in International Class 9;³ and

On-line retail store services featuring physical and virtual merchandise for use by members of an online community in connection with a designated website featuring fictional characters; On-line wholesale and retail store services featuring downloadable sound, music, image, video and game files; Computerized on-line retail store services in the field of physical and virtual casino and gaming goods; Retail store services featuring virtual goods, namely, casino and gaming goods for use in online virtual worlds in International Class 35.⁴

The Trademark Examining Attorney refused registration of Applicant's mark under Section 2(e)(2) of the Trademark Act, 15 U.S.C. § 1052(e)(2), on the ground that the mark CASINOLA is primarily geographically descriptive of its goods and services. According to the Examining Attorney, the mark CASINOLA combines the highly descriptive term CASINO with the geographic term LA, a common nickname for Los Angeles, California.⁵

When the refusal was made final, Applicant appealed and requested reconsideration. After the Examining Attorney denied the request for reconsideration, the appeal was resumed.⁶ We reverse the refusal to register.

³ Application Serial No. 90115759 was filed on August 14, 2020 under Section 1(b) of the Trademark Act, 15 U.S.C. § 1051(b), based upon Applicant's assertion of a bona fide intent to use the mark in commerce.

⁴ Application Serial No. 90115777 was filed on August 14, 2020 under Section 1(b) of the Trademark Act, 15 U.S.C. § 1051(b), based upon Applicant's assertion of a bona fide intent to use the mark in commerce.

⁵ 15 TTABVUE 5-6.

⁶ Citations in this opinion to the briefs refer to TTABVUE, the Board's online docketing system. See *New Era Cap Co. v. Pro Era, LLC*, 2020 USPQ2d 10596, at *2 n.1 (TTAB 2020).

I. Evidence

With its December 24, 2021 Response to the second Office action,⁷ Applicant provided the following responses to the Examining Attorney's June 14, 2021 request for information, reproduced below:⁸

The number preceding TTABVUE corresponds to the docket entry number, and any numbers following TTABVUE refer to the page(s) of the docket entry where the cited materials appear. Applicant's brief appears at 9 TTABVUE, and the Examining Attorney's brief appears at 15 TTABVUE.

Citations in this opinion to the application record, including the request for reconsideration and its denial, are to pages in the Trademark Status and Document Retrieval ("TSDR") database of the United States Patent and Trademark Office ("USPTO").

⁷ At 6-10.

⁸ At 2-3.

II. REQUEST FOR ADDITIONAL INFORMATION

The Examiner has requested the following information:

(1) Fact sheets, instruction manuals, brochures, advertisements and pertinent screenshots of applicant's website as it relates to the goods and/or services in the application, including any materials using the terms in the applied-for mark. Merely stating that information about the goods and/or services is available on applicant's website is insufficient to make the information of record.;

As the examiner is aware, Applicant has filed a 1(b) application and no downloadable software exists at this time.

(2) If these materials are unavailable, applicant should submit similar documentation for goods and services of the same type, explaining how its own product or services will differ. If the goods and/or services feature new technology and information regarding competing goods and/or services is not available, applicant must provide a detailed factual description of the goods and/or services. Factual information about the goods must make clear how they operate, salient features, and prospective customers and channels of trade. For services, the factual information must make clear what the services are and how they are rendered, salient features, and prospective customers and channels of trade. Conclusory statements will not satisfy this requirement.; and

As the examiner is aware, Applicant has filed a 1(b) application. As stated in the goods, the good is a downloadable gaming software. Attached hereto as **Exhibit 1** is a copy of an example downloadable recreational gaming software from the Google Play store. The gaming software will likely be a recreational non-gambling poker card game application.

(3) Applicant must respond to the following questions:

1. Will applicant's services come from or originate from Los Angeles, California?

Applicant is a registered LLC in Los Angeles, California. It is unlikely that the goods will originate from Los Angeles, California because it will be downloadable online via an app store with no physical location. However, under Class 09, the good is a recreational game software are not Casino services in Los Angeles.

2. Will the services or any aspect of the services be rendered in, or have any other connection with Los Angeles, California?

Applicant is a registered LLC in Los Angeles, California. Other than the Applicant having its business address in Los Angeles, the good is recreational game software available online.

3. Does applicant concede that LA or L.A. is an abbreviation for Los Angeles, California? See https://en.wikipedia.org/wiki/Los_Angeles ("Los Angeles [is] officially the City of Los Angeles and often abbreviated as L.A. . . .").

Applicant does not dispute that it is not unreasonable for someone to associate "L.A." with Los Angeles. However Applicant does not concede that LA, La, la is only an abbreviation for Los Angeles. LA and La. is the postal and standard abbreviation for Louisiana. **Exhibit 3.** Moreover "la" or "La" is considered the 6th note or A note in music. **Exhibit 4.** For example in the well no song Do-re-mi by Julie Andrews, it is sung Do-re-mi-fa-so-la-ti. **Exhibit 5.** In fact how Applicant uses the "la" in Casinola, is pronounced like the 6th note or A note in music not "L" "A" spoken as two letters.

4. Does applicant concede that a "casino" is a facility that is used in part for gambling and for hosting live entertainment? See <https://www.merriam-webster.com/dictionary/casino>.

Applicant does not disagree that a "casino" is a facility used for gambling. Applicant disagrees that a "casino" is used "in part" for gambling. The primary purpose of a casino is gambling. Applicant disagrees that casinos are used in part for "hosting live entertainment". A casino may have a separate stage, club, or concert venue aside from the actual casino for the purpose of live entertainment, but those areas are not the "casino". Under Class 09 the good is recreational non-gambling gaming software. There is no gambling and the software does not host live entertainment.

5. Does applicant concede that the term "CASINOLA" has meaningful dictionary definition? See <https://www.merriam-webster.com/dictionary/casinola> (showing no definition for the term). If applicant does not concede this fact, please provide a dictionary definition and provide evidence for that definition.

Casinola is a made up word. Applicant is unaware of any dictionary definition. As Applicant pronounces the word ca·si·no·la, with four syllables, similar to how one might pronounce Ca·sa·no·va or casanova "a man known for seducing women and having many lovers". I would invite the Examiner to visit Applicant's <https://soundcloud.com/casinola> and play "CASINOLA MIX 021 by BRIAN VIDAL". There the examiner can hear the pronunciation. Casinola is not pronounced casino-L-A.

6. What is the significance of the mark "CASINOLA"? Importantly, applicant must explain whether the wording "CASINOLA" has any meaning or significance in the industry in which the goods and/or services are manufactured/provided, any meaning or significance as

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applied to applicant's goods and/or services, or if such wording is a term of art within applicant's industry.

To Applicant's knowledge there is no industry significance nor is it a term of art within the industry. It is a made up word and there is no special significance to the mark.

7. Does the wording "CASINOLA" have any meaning in a foreign language?

If it does, provide the definition and evidence for the translation.

No.

8. Does applicant provide casino services such as facilities for gambling, for hosting live entertainment, or facilities for playing games?

Applicant does not have any facilities for providing casino services. Under Class 09 Applicant's intended good is a recreational gaming software. The software is not for gambling or hosting live entertainment.

9. Are applicant's Class 41 services broadcast from casinos or held live at casinos? If yes, please explain.

No.

10. Do applicant's Class 41 services feature films and videos about casinos or casino gaming?

As the examiner is aware, Applicant has filed a 1(b) application and there have been no feature films to date on any subject matter to date.

11. Are applicant's Class 41 production services related to casinos or casino gaming in any way? If yes, please explain.

As the examiner is aware, Applicant has filed a 1(b) application and there have been no production services to date related to casinos or casino gaming.

12. Who is the typical consumer of applicant's goods and/or services?

Unknown. Under class 09, Applicant suspects the consumer would be someone into recreational, non-gambling gaming.

13. Where are applicant's goods and/or services typically purchased (provide examples of online and brick-and-mortar store venues)?

As the examiner is aware, Applicant has filed a 1(b) application. Since the good is downloadable software, the goods will likely be downloadable on the Apple app store or Google app store.

As evidence of the geographic significance of the term LA, the Examining Attorney submitted with the December 11, 2020 first Office action:⁹ a Wikipedia entry for Los Angeles and dictionary definitions of LA. The Wikipedia entry notes that “Los Angeles, officially the City of Los Angeles and often known by its initials L.A., is the largest city in California.¹⁰ According to the dictionary definitions, LA may be defined as follows: (abbreviation) 1 law agent; 2 legislative assistant; 3 Los Angeles; 4 Louisiana.¹¹

The Examining Attorney further submitted with the January 3, 2022 final Office

⁹ At 5-37.

¹⁰ *Id.* at 5. The Board gives guarded consideration to evidence taken from Wikipedia, bearing in mind the limitations inherent in this reference work, so long as the non-offering party has an opportunity to rebut the evidence by submitting other evidence that may call its accuracy into question. *See In re IP Carrier Consulting Group*, 84 USPQ2d 1028, 1032 (TTAB 2007). In the case before us, the Wikipedia evidence was submitted with the Examining Attorney's initial Office actions, and Applicant had an opportunity to rebut it. *See also In re Jimmy Moore LLC*, 119 USPQ2d 1764, 1768 (TTAB 2016) (“Wikipedia is an Internet source whose contents are continuously subject to change via collaborative user-input”).

¹¹ *Id.* at 26, 35-6. LA also denotes a musical note. *See, e.g.*, December 24, 2021 Response to Office action at 20-30.

action:¹² a Wikipedia entry for “Los Angeles County, officially the County of Los Angeles and sometimes abbreviated to L.A. County, is the most populous county in the United States and in the U.S. State of California, with more than 10 million inhabitants as of the 2020 census;” screenshots from lacounty.gov displaying the County of Los Angeles abbreviated as LA County or L.A. County; screenshots from Tripadvisor.com abbreviating Los Angeles as LA or L.A.; a Wikipedia entry for “Casino game” indicating “games available in most casinos are commonly called casino games. In a casino game, the players gamble cash or casino chips on various possible random outcomes or combinations of outcomes;” screenshots from several informational websites discussing the most popular types of casino games that may be played at casinos and on home computers or gaming devices; and screenshots of third-party websites displaying CASINOLA and variations thereof denoting casinos and casino gaming in Los Angeles, California. Excerpts from these websites are displayed below:

¹² At 8-144.

Instagram

Search

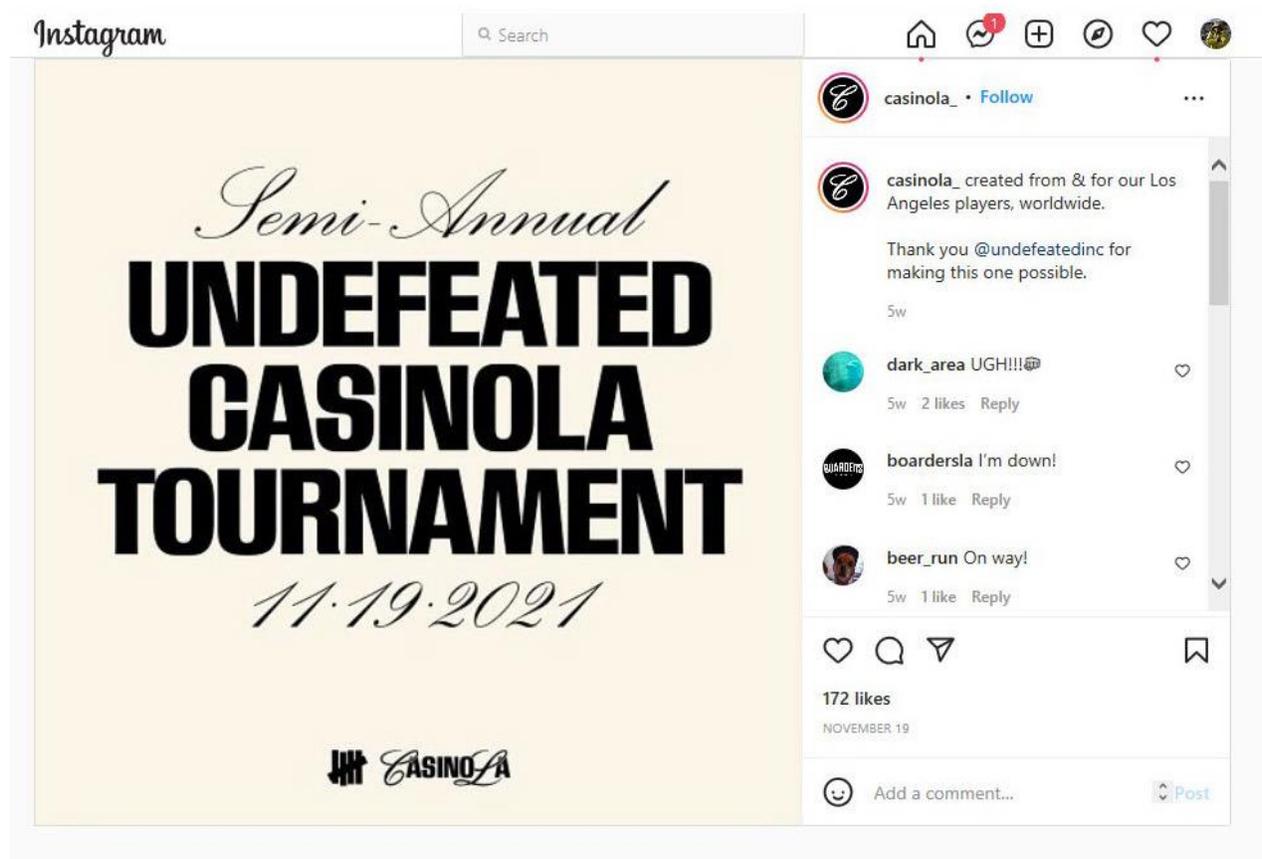
casinola_ [Follow](#) ...

9 posts 1,224 followers 237 following

CASINOLA

POSTS TAGGED





Casino LA

Los Angeles

Los Angeles Casinos are becoming increasingly more popular and the same sentiment has been shared about [Sun Vegas Online Casino](#)! They, much like other casinos in the world, facilitate gambling with widely recognized games, such as Poker, Blackjack, Texas hold 'em, Baccarat tables, Slot Machines, etc... However, the casinos of Los Angeles are not merely locations for just gaming and gambling, nor are they similar to any other casinos.

In particular cases, casinos have been viewed negatively because of gambling addictions and for some, loss of money, but LA casinos strive to shatter those reputations. Most casinos in the LA area offer a wide-spectrum of entertainment and services apart from gambling.



They have become quite notorious for attracting tourists due to the number of hotels, shopping, restaurants, sporting events, concerts, and other great accommodations/services that are affiliated with the casinos. This, in turn, creates great vacation destinations and fun-filled atmospheres suitable for not just adults, rather the entire family.



<https://www.classification.gov.au/titles/casinola-poker> 12/31/2021 09:57:53 AM

The screenshot shows the Australian Classification website for 'Casinola Poker'. At the top, there are two notification banners: a red one for 'Coronavirus (COVID-19) updates from the Australian Government' and a yellow one for 'This website uses cookies...'. Below these is the site header with the Australian Government logo, 'Australian Classification' text, and various icons (GTC, PG, M, MA, R, X) and a 'Portal login' button. A navigation bar includes 'Classification ratings', 'For industry', 'About us', 'Contact us', and a search bar. The main content area features a blue 'M' rating box with the text 'Simulated Gambling, Online Interactivity' and a 'What do the ratings mean?' link. To the right, the title 'Casinola Poker' is displayed with its category 'Computer Games', duration 'Variable', and classification date '05 October 2021'. Below this is an 'Industry details' section with a table of information.

Industry details	
Classification date	5 October 2021
Year of production	Not Specified
Classification	M
Consumer advice	Simulated Gambling, Online Interactivity
Category	Computer Games

13

The Examining Attorney also submitted with the September 22, 2022 Denial of Applicant’s Request for Reconsideration¹⁴ additional screenshots from the above

¹³ The website for Casinola Poker, offering simulated gambling, is located in Australia. The Federal Circuit has explained that “[i]nformation originating on foreign websites or in foreign news publications that are accessible to the United States public may be relevant to discern United States consumer impression of a proposed mark.” *In re Bayer Aktiengesellschaft*, 488 F.3d 960, 82 USPQ2d 1828, 1835 (Fed. Cir. 2007). We consider this evidence inasmuch as the website may be accessible to U.S. consumers. However, we do not consider a second article from the Australian Gambling Research Centre because there is no indication it is intended for or relevant to viewers outside of Australia.

¹⁴ At 3-19.

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Instagram page of casinola, and screenshots from Larry Flynt's Hustler casino, "LA's best Poker, Blackjack, Fortune Pai Gow Poker."

We further note that the Examining Attorney introduced multiple copies of the same evidence. The Board has long discouraged this practice. *In re Virtual Indep. Paralegals, LLC*, 2019 USPQ2d 111512, at *1 (TTAB 2019). Submitting evidence more than once does not increase its probative value and, instead, undermines the effective presentation of the issues involved in the case, hinders the Board's review of the record, and ultimately delays issuance of a final decision. *Id.* ("[M]ultiple submissions of the same evidence can cause confusion in reviewing the record and unnecessary delay in issuing a final decision. If evidence that purportedly is the same is presented more than once, the Board must compare all versions of the evidence to confirm that it is, in fact, identical. This is not an appropriate use of the Board's limited resources.").

Applicant argues in its June 11, 2021 Response to Office action: "A consumer seeing CASINOLA (or, as the drawing shows, 'Casinola') out in the market would much more readily associate this with New Orleans (Nola) or Louisiana (LA) if there [sic] were to associate it with any place at all."¹⁵

II. Applicable Law

The test for determining whether a term is primarily geographically descriptive is whether (1) the primary significance of the term in the mark sought to be registered is the name of a place generally known to the public, (2) the goods or services originate

¹⁵ At 8. Applicant submits a definition of NOLA as "short for New Orleans, Louisiana" at 12.

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in the place identified in the mark; and (3) the public would make an association between the goods or services and the place named in the mark, that is, believe that the goods or services for which the mark is sought to be registered originate in geographic place identified in the mark. *In re Newbridge Cutlery Co.*, 776 F.3d 854, 113 USPQ2d 1445, 1448-9 (Fed. Cir. 2015); *see also In re Jacques Bernier Inc.*, 894 F.2d 389, 13 USPQ2d 1725 (Fed. Cir. 1990); *In re Societe General des Eaux Minerals de Vittel S.A.*, 824 F.2d 957, 3 USPQ2d 1450 (Fed. Cir. 1987); *In re Hollywood Lawyers Online*, 110 USPQ2d 1852 (TTAB 2014); *In re Spirits of New Merced LLC*, 85 USPQ2d 1614, 1616 (TTAB 2007).

When the geographic significance of a term is its primary significance and the geographic place is neither obscure nor remote, for purposes of Section 2(e)(2), the goods/place or services/place association may ordinarily be presumed from the fact that the goods or services originate in or near the place named in the mark. *Spirits of New Merced*, 85 USPQ2d at 1621 (“[S]ince the goods originate at or near [Yosemite National Park], we can presume an association of applicant’s beer with the park.”).

III. Discussion

Turning first to the question of whether LA in the mark CASINOLA is the name of a place generally known to the public, we look to the *Vittel* decision, *In re Societe Generale des Eaux Minerales de Vittel S.A.*, 3 USPQ2d 1450 (Fed. Cir. 1987), wherein our primary reviewing Court, the Court of Appeals for the Federal Circuit, held that “it is necessary that the purchasers perceive the mark as a place name... .” 3 USPQ2d at 1452.

In its above responses to the Examining Attorney's requests for information, Applicant asserts that CASINOLA is a coined term with no meaning, and that LA in its mark does not denote Los Angeles, California. However, based upon the record in this case, we find that while the term may have several dictionary meanings, LA in various permutations is a shorthand for the City of Los Angeles, California. Los Angeles is denoted by the shorthand LA or L.A., both by the consuming public and civic authorities in the City and County of Los Angeles. As a result, on this record, consumers are most likely to associate LA with Los Angeles. Certainly, Los Angeles, California is a well-known geographic location. *Cf. In re Broken Arrow Beef & Provision, LLC*, 129 USPQ2d 1431, 1434 (TTAB 2019) (finding that "the letters 'BA' in the applied-for mark have no obvious, generally known geographic significance, much less as a known abbreviation for Broken Arrow, Oklahoma.").

The fact that LA may also indicate Louisiana does not detract from the significance of LA as denoting Los Angeles. Aside from dictionary definitions there is little, if any, record evidence to suggest consumers will associate LA in the mark with Louisiana or, as Applicant suggests, consumers will view NOLA in CASINOLA as indicating New Orleans, Louisiana. *See, e.g., In re Loew's Theatres, Inc.*, 769 F.2d 764, 226 USPQ 865 (Fed. Cir. 1985) (DURANGO primarily geographically deceptively misdescriptive of chewing tobacco not grown in Durango, Mexico, where the evidence of record showed that tobacco is a crop produced and marketed in that area, even though there is more than one place named Durango); *In re Cheezwhse.com, Inc.*, 85 USPQ2d 1917 (TTAB 2008) (NORMANDIE CAMEMBERT, with CAMEMBERT

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disclaimed, primarily geographically descriptive of cheese because NORMANDIE is the French spelling for Normandy, consumers would recognize NORMANDIE as the equivalent of Normandy, the primary significance of Normandy is a known geographic place in France, and CAMEMBERT is generic for applicant's goods); *In re Cambridge Digital Sys.*, 1 USPQ2d 1659, 1662 (TTAB 1986) (CAMBRIDGE DIGITAL and design primarily geographically descriptive of computer systems and parts thereof, where the applicant's place of business is Cambridge, Massachusetts, even though there is more than one geographic location named Cambridge). For consumers to understand the final four letters as "NOLA", they would have to view the mark as being telescoped from "CASINO NOLA" or indicating "CASI NOLA" and there is no evidence to show that consumers are likely to perceive the mark in such a manner.

Nor is there any evidence consumers will ascribe to LA in CASINOLA the meaning of law agent or legislative assistant in connection with the identified goods and services. Rather, the consuming public commonly uses and recognizes LA to refer to Los Angeles as its primary significance. *See, e.g., In re Hollywood Lawyers Online*, 110 USPQ2d 1852, 1858 (TTAB 2014) (finding no allusion to the alternative meaning of "Hollywood" referencing the film industry when viewed in the context of applicant's services and without additional elements in the mark to detract from the geographic significance); *In re Opryland USA Inc.*, 1 USPQ2d 1409 (TTAB 1986) (finding THE NASHVILLE NETWORK primarily geographically descriptive of television program production and distribution services where primary significance of NASHVILLE was the geographic location of Nashville, Tennessee and not that of a style of music); *In*

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re Cookie Kitchen, Inc., 228 USPQ 873, 874 (TTAB 1986) (fact that MANHATTAN identifies an alcoholic cocktail does not alter the primary significance of the term as a borough of New York City).

We agree with the Examining Attorney that the term CASINO in Applicant's mark is highly descriptive of Applicant's goods and services that include game software and retail store services featuring virtual goods, namely, casino and gaming goods for use in online virtual worlds. Applicant states in its responses to the Examining Attorney's requests for information that it does not provide casinos or casino gaming. Nonetheless, Applicant states its gaming software will provide a recreational, non-gambling poker game application. The above evidence of record indicates that various forms of poker are popular casino games and that gaming software may be used to provide online casino services. Thus, CASINO at best is highly descriptive of the identified goods and services. It is settled that "the presence of generic or highly descriptive terms in a mark which also contains a primarily geographically descriptive term does not serve to detract from the primary significance of the mark as a whole." *In re JT Tobacconists*, 59 USPQ2d 1080, 1082 (TTAB 2001); *see also In re Bacardi & Co. Ltd.*, 49 USPQ2d 1301 (TTAB 1997).

Applicant further asserts in its responses to the Examining Attorney's requests for information that CASINOLA is a coined term with no known meaning. However, the record evidence shows the proposed mark is made up of the terms CASINO and LA, and Applicant provides little evidence that consumers will view its proposed mark in any other manner as a fanciful term. *Cf. In re Sibony*, 2021 USPQ2d 1036,

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at *11-13 (TTAB 2021) (REPUBLIC OF LONDON for clothing items not primarily geographically deceptively misdescriptive under §2(e)(3) because the primary significance of the mark as a whole is a fictitious or whimsical location).

In addition, Applicant's CASINOLA mark is presented in standard character form and therefore we must consider all reasonable presentations of that mark. The rights associated with a mark in standard characters reside in the wording and not in any particular display. *In re Viterra Inc.*, 671 F.3d 1358, 101 USPQ2d 1905, 1909-11 (Fed. Cir. 2012); *Cunningham v. Laser Golf Corp.*, 222 F.3d 943, 55 USPQ2d 1842, 1847 (Fed. Cir. 2000) ("Registrations with typed drawings are not limited to any particular rendition of the mark and, in particular, are not limited to the mark as it is used in commerce"); *In re Cox Enters. Inc.*, 82 USPQ2d 1040, 1044 (TTAB 2007) ("We must also consider that applicant's mark, presented in typed or standard character form, is not limited to any special form or style as displayed on its goods"). Thus, Applicant may display its mark as CasinoLA, further enhancing the impression of a casino located in Los Angeles.

Turning to the second inquiry, goods or services may be found to originate from a geographic location if, for example, they are manufactured, produced, or sold there. *See Fred Hayman Beverly Hills Inc. v. Jacques Bernier Inc.*, 38 USPQ2d 1691, 1694-95 (TTAB 1996) (RODEO DRIVE primarily geographically deceptively misdescriptive of perfume, where opposer's evidence showed that a significant number of Rodeo Drive retailers sold prestige fragrances, and that the public would be likely to make the requisite goods/place association between perfume and Rodeo

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Drive); *cf. In re Jacques Bernier Inc.*, 894 F.2d 389, 391-92, 13 USPQ2d 1725, 1727 (Fed. Cir. 1990) (holding RODEO DRIVE not primarily geographically deceptively misdescriptive of perfume because of the lack of persuasive evidence of a goods/place association in the ex parte record).

Applicant indicates in its responses to the Examining Attorney's request for information that its business address is in Los Angeles, California. Applicant further indicates that its goods will be available online by means of an app store with no physical location, and its services will also be available online.

The Examining Attorney argues:¹⁶

Applicant concedes that "[i]t is likely that some services will have some connection to Los Angeles, California because the LLC has an address in Los Angeles" regarding applicant's services in International Class 35. See December 14, 2021, Serial No. 90115777 Response, TSDR p. 4. Furthermore, it can be presumed that applicant's goods in International Class 9, which applicant states are "available online," are developed or produced in Los Angeles, California and can be downloaded by a consumer located in Los Angeles, California. See December 14, 2021, Serial No. 90115759 Response, TSDR p. 4. The goods and services therefore originate in Los Angeles, California based on the information provided and applicant's statements.

However, there is little evidence of record to suggest that Applicant's goods or services will be developed or produced in Los Angeles.¹⁷ There is no evidence, for instance, that a main component of the goods will be produced there. *Cf. City of London Distillery Ltd. v. Hayman Grp. Ltd.*, 2020 USPQ2d 11487, at *6, *10 (TTAB 2020) (holding CITY OF LONDON primarily geographically descriptive of gin

¹⁶ 15 TTABVUE 10.

¹⁷ As noted above, the involved applications are based upon Applicant's bona fide intent to use the mark in commerce, and Applicant does not appear to have yet commenced use.

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distilled at a distillery in London and bottled just outside of London); *see also In re Joint-Stock Co. "Baik,"* 80 USPQ2d 1305 (TTAB 2006). This is not a circumstance in which evidence suggests the identified goods and services will originate in or near Los Angeles. *Cf. In re Cal. Pizza Kitchen Inc.,* 10 USPQ2d 1704, 1706 n.2 (TTAB 1988) (holding CALIFORNIA PIZZA KITCHEN for restaurant services primarily geographically descriptive, where the services were rendered both in California and elsewhere).

Rather, the record evidence is insufficient to demonstrate that Applicant's goods and services will be offered, produced or rendered in Los Angeles. Aside from Applicant's business address in Los Angeles, there is no evidence that Applicant's goods and services will originate there. Goods and services do not necessarily originate in an applicant's place of business. *See In re Mankovitz,* 90 USPQ2d 1246, 1249 (TTAB 2009) ("the mere fact that the applicant sleeps in Montecito [California] is not necessarily enough to establish a goods-place association" and "[e]ven the location of a corporate headquarters is not necessarily sufficient to show a goods/place relationship."). Applicant's responses to the Examining Attorney's information request fall short of establishing a connection between its goods and services and the City of Los Angeles, and the Examining Attorney did not issue any requests directed specifically to the place of Applicant's production or sale of the goods, the place of Applicant's rendition of the services, or whether other companies in Los Angeles produce or sell the goods or render the services.

We turn to the third inquiry of the test, namely, whether purchasers would make

a goods/place or services/place association between Applicant's goods and services and Los Angeles. When the geographic significance of a term is its primary significance and the geographic place is neither obscure nor remote, for purposes of §2(e)(2), the goods/place or services/place association may ordinarily be presumed from the fact that the applicant's goods or services originate in or near the place named in the mark. *Spirits of New Merced*, 85 USPQ2d at 1621 (YOSEMITE BEER geographically descriptive of beer produced and sold in a brewpub in Merced, California, "[s]ince the goods originate at or near [Yosemite National Park], we can presume an association of applicant's beer with the park.>").

However, as discussed above, there is insufficient evidence that Los Angeles is known for the identified goods or services. Aside from a single webpage discussing one casino assertedly located in Los Angeles, the record does not support a finding that consumers generally associate LA with computer and video gaming goods and online retail store services of the type intended to be offered by Applicant. Absent from the record is evidence from Applicant's website or marketing materials, third-party webpages, an electronic database, gazetteers, encyclopedias or geographic dictionaries establishing an association between Los Angeles and the identified goods and services. *See* TMEP §1210.04 and authorities cited therein.

The facts of this case are analogous to those in *In re Gale Hayman Inc.*, 15 USPQ2d 1478 (TTAB 1990), in which the Board found SUNSET BOULEVARD not primarily geographically descriptive of perfume and cologne. The Board did not presume a goods/place association based upon the mere fact that the applicant's

principal offices were located in Century City, close to Sunset Boulevard. In determining that the public would not make a goods/place association, the Board noted that there was no evidence that any perfume or cologne was manufactured or produced on Sunset Boulevard or that the applicant's goods were sold there. In its above responses to the Examining Attorney's information requests, Applicant states that the only connection to the City of Los Angeles is Applicant's business address, and the Examining Attorney has not introduced evidence that the goods or services will be associated with LA for that reason or because Los Angeles is generally known for those goods and services. We therefore find the Examining Attorney's arguments to be conclusory and not supported by Applicant's responses or other record evidence.

IV. Summary

We find under the first inquiry of the Section 2(e)(2) test that the primary significance of Applicant's CASINOLA mark is that of the geographic place known as LA, i.e., the City of Los Angeles, California and the highly descriptive term CASINO.

Based upon the evidence of record, we find insufficient support for the Examining Attorney's position under the second inquiry that Applicant's goods or services originate or will originate in Los Angeles, or under the third inquiry that consumers will associate Applicant's goods or services with that geographic location.

Decision: The refusal to register the mark CASINOLA under Trademark Act Section 2(e)(2), 15 U.S.C. §1052(e)(2), on the ground that the mark is primarily geographically descriptive of the goods and services, is reversed.